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April 2, 1992

APR 2 - 1992

Federal Communications Commission
Office of the Secretary

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

EX PARTE

Re: ET Docket No. 92-9

Dear Ms. Searcy:

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, enclosed are two copies of a written ex parte presentation made by the Utilities Telecommunications Council (UTC) to the office of Chairman Sikes, Commissioner Quello, the Private Radio Bureau, the Office of Engineering and Technology, and the Office of Plans and Policy in connection with ET Docket No. 92-9.

Should any questions arise concerning this matter, please communicate directly with the undersigned.

Very truly yours,

Jeffrey L. Sheldon
General Counsel

Enclosures

cc: Terry L. Haines
Ralph A. Haller
Brian F. Fontes
Robert M. Pepper
Bruce A. Franca

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APR 2 - 1992

April 2, 1992

Federal Communications Commission
Office of the Secretary

Mr. Terry L. Haines
Chief of Staff
Office of the Chairman
Federal Communications Commission
1919 M Street, N.W. Room 814
Washington, D.C. 20554

Hand-Delivered

Re: ET Docket No. 92-9

Dear Terry:

Following-up on our March 31 meeting, attached is a copy of a February 27, 1992, letter to the Private Radio Bureau (PRB) requesting clarification of the PRB's licensing policies with respect to private microwave facilities in the 1850-1990 MHz, 2130-2150 MHz, and 2180-2200 MHz band ("2 GHz bands") due to the 2 GHz licensing policies adopted by the Commission in its Notice of Proposed Rule Making (NPRM) in ET Docket No. 92-9.

From our discussion of March 31, I understand that it was only the Commission's intention to prevent the filing of speculative 2 GHz applications, and not to prevent reasonable system modifications. In light of this, and in light of the severe impact the "freeze" is already causing applicants and licensees, it would be appropriate for the Commission, either through Public Notice or erratum to the NPRM in ET Docket No. 92-9, to clarify these policies.

Short of removing this de facto "freeze" on the filing of 2 GHz applications, the policy should be clarified as follows:

To be granted on a primary basis, applications for new or modified facilities in the 2 GHz band submitted after the adoption date of the NPRM must be accompanied by information demonstrating that:

- a. The proposed facilities, either new or modified, will augment the applicant's previously authorized microwave system to

Terry L. Haines
April 2, 1992
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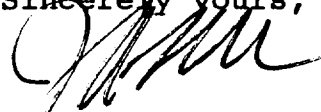
meet the applicant's legitimate communications requirements; or

- b. If for completely new facilities, the applicant has legitimate communications requirements that cannot be met in other frequency bands due to rule limitations or lack of equipment availability.

Clarification along these lines would permit licensees to complete planned system expansions (such as by closing microwave "loops" or adding "spurs" from backbone microwave systems), make more efficient use of existing systems (such as by converting from analog to digital), and permit the licensing of new systems where it can be shown the application is not for sheer speculation.

I look forward to discussing this matter with you further. If you have any questions concerning this request, please let me know.

Sincerely yours,



Jeffrey L. Sheldon
General Counsel

Enclosure

cc (w/ enc.):
Ralph A. Haller
Bruce A. Franca
Robert M. Pepper
Brian F. Fontes



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February 27, 1992

Mr. Ralph A. Haller
Chief, Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W. Room 5002
Washington, D.C. 20554

Re: Processing of 2 GHz Microwave Applications

Dear Mr. Haller:

There is significant uncertainty among the private microwave user community with regard to the Commission's current policies for the processing and grant of applications for private microwave facilities in the 1850-1990 MHz, 2130-2150 MHz and 2180-2200 MHz bands ("2 GHz bands"). The Utilities Telecommunications Council ("UTC") would therefore appreciate it if the Private Radio Bureau could issue a Public Notice on these policies to provide guidance to existing 2 GHz licensees who may be contemplating system modifications or expansions.

In adopting the Notice of Proposed Rule Making in ET Docket No. 92-9, FCC 92-20, released February 7, 1992 ("NPRM"), the Commission announced that "applications for new facilities [in the 2 GHz bands] submitted after the adoption date of this Notice will be granted on a secondary basis only, conditioned upon the outcome of this proceeding." (NPRM, para. 23). From conversations with your office and the staff of the Licensing Division, UTC understands that the Bureau intends to apply this "secondary-only" policy to applications for major modifications of facilities as well as for new facilities. However, UTC understands there may be several exceptions to this policy; for example, the deletion of a frequency, the addition to an existing 2 GHz microwave station of a frequency from another band, or an assignment of license or transfer of control unaccompanied by a facilities modification.

Mr. Ralph A. Haller
February 27, 1992
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There are over 20,000 private microwave facilities currently licensed in the 2 GHz band. It is reasonable to assume that at least some of the existing 2 GHz microwave licensees will need to request license modifications during the pendency of Docket 92-9. For example, UTC has received inquiries from licensees who are planning to expand their microwave systems in other frequency bands, or to delete frequencies from existing authorizations, but who are reluctant to propose any "major modifications" of licenses which include 2 GHz frequencies. Although UTC has notified its membership of what we understand to be the Bureau's general policies in this area, UTC doubts whether the vast majority of 2 GHz licensees are even aware that a major modification could result in the facility being relegated to secondary status.

UTC therefore requests the Bureau to issue a Public Notice to explain its 2 GHz application processing policies during the pendency of Docket 92-9. Among the issues which should be addressed are:

- o The effect of a "secondary status" condition on 2 GHz microwave licenses.
- o Whether a "secondary status" condition will be imposed on applications for --
 - major modifications not involving a change in the 2 GHz facilities themselves (e.g., addition of a frequency in another band); or
 - assignments of license or transfers of control.
- o Whether applicants needing only narrow bandwidths may request use of "wideband" 6 GHz channels if narrowband 6 GHz equipment or frequencies are unavailable.

If you have any questions concerning this request, please let me know.

Sincerely yours,



Jeffrey L. Sheldon
General Counsel

cc: Michael B. Hayden